



Staff Report

DISCUSSION AND DIRECTION REGARDING AMENDMENTS TO MUNICIPAL CODE CHAPTER 8.5, CONTROL OF CAMPAIGN CONTRIBUTIONS

Honorable Mayor and Council Members:

Summary

Ordinance 755, enacted in 1986, establishes certain regulations pertaining to campaigns of individuals running for office in Belmont (City Council, City Clerk, and City Treasurer). The regulations in this ordinance do not apply to measures placed on the ballot (e.g., initiatives). In addition, the ordinance also requires the filing of campaign statement filing on the Friday just prior to election day, which is in addition to those set out by State law (for a total of three pre-election filings). This ordinance is being reviewed at this time as part of the Council's regular review of the various chapters of the Municipal Code.

Background

California's Political Reform Act (the "Act") requires receipts and expenditures in election campaigns to be disclosed fully and truthfully. Since 1974, there have been over 200 amendments to the Act's campaign disclosure provisions. The Act requires disclosure of campaign contributions and expenditures in connection with state and local elections, including ballot measure elections. Disclosure is required by:

- Candidates for state and local offices
- State and local elected officeholders
- Campaign committees, including:
 1. Candidate controlled committees: State and local candidates and officeholders who receive contributions totaling \$1,000 or more in a calendar year;
 2. Recipient committees: Individuals and organizations that receive contributions--\$1,000 or more in a calendar year--to support or oppose state or local candidates, or to qualify, support or oppose state or local ballot measures, including initiative, referendum and recall measures (either primarily formed to support or oppose a single candidate or ballot measure, or more than one candidate or measure being voted on in a single election, or general purpose to support or oppose a variety of candidates and/or measures);
 3. Major donor committees: Individuals or entities that use their own money (i.e., personal funds, corporate or business funds) to make contributions totaling \$10,000 or more in a calendar year to candidates or to committees supporting or opposing candidates or ballot measures;

4. Independent expenditure committees: Individuals or entities that use their own money to make "independent expenditures" totaling \$1,000 or more in a calendar year to support or oppose candidates or measures (e.g., Jane Brown uses personal funds to send a mailing to voters or to purchase an advertisement supporting a candidate, but she does so independently--not in coordination with the candidate or his or her campaign committee).

In addition to these regulations, cities have the ability to add additional restrictions, which is reflected in Belmont's Ordinance 755. Twenty-two percent of cities in California have local ordinances governing campaigns (although it should be noted that some of these ordinances address a variety of election-related issues, including additional campaign filings and voluntary expenditures).

Discussion

Belmont's Ordinance 755 contains the following contribution limits (per calendar year):

Individuals:	\$100
Organizations/Businesses:	\$200
Total Political Action Committee (cumulative):	\$600

Given the fact that the cost of running an election has increased substantially since 1986, an argument could be made that the above limits are no longer reasonable.

The State does not limit cumulative contribution totals for candidates for local elections except under certain provisions, or unless a local ordinance, such as Belmont's, is in place.

Compliance with Ordinance 755 is often confusing because the amounts that are required to be itemized on Form 460 Campaign Disclosure Statement differ from the contribution amounts indicated in the instructions for Form 460. For example, as noted above, State law requires that candidates must form a committee and begin reporting when contributions have totaled \$1,000 or more, but Ordinance 755 sets \$200 as the threshold for such reporting, which means that under Belmont's more stringent ordinance, a committee would need to be formed at the \$200 threshold. In addition, State law requires the itemization of contributions exceeding \$100, but Ordinance 755 sets this threshold at \$50.

Because candidates and their treasurers rely on the detailed directions provided by the State for filling out Form 460, the City Clerk is required to spend time explaining to candidates the different requirements set forth in Belmont's ordinance. Oftentimes these differences are forgotten by the time the first financial report is due. Council is aware that campaign reporting requirements can be overwhelming without the added burden of differing instructions for the same form.

Ordinance 755 also provides for an additional filing period not required under State provisions on the Friday immediately preceding an election. Staff believes that the genesis of adding this filing period was to capture last-minute expenditures, and/or "estimated future expenditures". It

should be noted that as part of this additional filing, the candidate is to provide “a statement of estimated additional expenditures which the candidate or committee chairperson reasonably expects to expend on or before the election date. There shall be no violation of this article if such estimate is unintentionally at variance with the amounts actually expended.” Staff believes that this clause is vague and difficult to monitor or enforce. As Council reviews and considers any changes to the ordinance, it should consider whether or not to continue this additional filing requirement.

Staff conducted a poll of other cities in San Mateo County. Most have no local limits, or ordinances, and are governed only by State law, except for the following.

Burlingame (effective March, 2007)

- \$500 individual contribution
- \$1,000 organization/business (includes political action committees) contribution
- \$12,000 limit on repayment to individual for loan to his/her own campaign
- Contains escalator clause for above amounts (so far never raised)

San Mateo (effective 2005)

- \$250 individual
- \$500 organization/business
- \$15,000 maximum outstanding loan amount from candidate’s personal funds

Half Moon Bay (effective January, 2007)

- \$1000 individual/organization/business contribution
- No limits on personal loan
- City Clerk required to publish list of names of contributors of \$100 or more to any candidate’s committee on Friday just prior to election

At one time, Foster City had an ordinance addressing voluntary campaign spending limits, which included individual contribution limits, but it was repealed in 2002. Individual contributions under that ordinance had been set at \$250 per person, and the total voluntary expenditure cap was \$5,000. Those familiar with the cost of running an election will recognize that \$5,000 would not go far.

At the meeting, staff will guide the City Council through the various components of the existing ordinance to determine what if any changes should be made. A variety of options will be offered. Staff recommends the deletion of Section 8.5-8 of the ordinance, “Contribution by City Contractors”. Staff is concerned that this section is vague and unenforceable. Because of the fact that “city contractors” are not clearly defined, the interpretation of this section may be too broad.

Voluntary Spending Limits

One area not addressed in the existing ordinance is voluntary spending limits. Council may be aware that many cities have such provisions, and incentives are provided for candidates running

for certain State offices (such as the Assembly) if voluntary spending limits are accepted. (State legislative candidates accepting such limits are entitled to have a candidate statement appear in the Voter Pamphlet, and those not accepting the limit are not entitled.) In staff's research of other cities in the State which have local ordinances that include voluntary spending limits, some of those cities offer incentives to those accepting such limits, such as allowing a higher level of individual contribution than those not accepting the limits (e.g., \$250 versus \$100). As part of its discussion, Council may wish to address whether or not to include a voluntary spending limit component, and if so, whether or not to include incentives. Spending limit levels are generally set at \$1.00 per registered voter or \$1.00 per resident. (Belmont has and about 25,000 residents and just under 15,000 registered voters.)

Attached with this report is an excerpt of the minutes from 1986 wherein Ordinance 755 was discussed. This is provided for background purposes only. Also attached are copies of Burlingame and San Mateo's ordinances.

General Plan/Vision Statement

No impact.

Fiscal Impact

No fiscal impact, other than minor publication costs for any new, modified, or repealed ordinance.

Public Contact

Posting of the agenda.

Recommendation

1. Do nothing and leave the existing ordinance as it exists
2. Modify the ordinance by setting new limits for campaign contributions, inclusion of a voluntary spending limit, and/or any other modifications, as appropriate
3. Repeal the ordinance altogether, leaving the provisions as governed by State law as the guide.

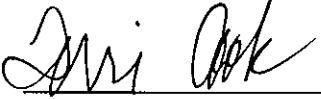
Staff has no specific recommendations, as this is a policy consideration. However, if Council does not wish to raise the campaign contribution limits, staff would recommend modifying the threshold for individual contribution reporting to match those as set forth by the State, so as to avoid confusion by candidates and/or their treasurers when filling out campaign expense forms. Council should also discuss and make a recommendation regarding the additional filing date of the Friday immediately preceding an election.

Staff recommends the Council determine whether or not it wishes to include a voluntary spending limit component to any modified ordinance.

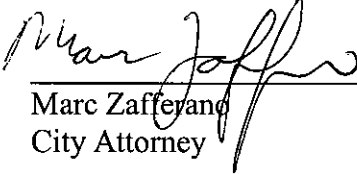
Attachments

- A. Belmont Ordinance 755, enacted 1986 (Municipal Code Chapter 8.5)
- B. Excerpt from Minutes of September 10 and October 24, 1986
- C. Burlingame Ordinance 1801 governing campaign contributions
- D. San Mateo Ordinance 2005-1 governing campaign contributions
- E. Half Moon Bay Ordinance 01-07 governing campaign contributions

Respectfully submitted,



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Chapter 8.5 CONTROL OF CAMPAIGN CONTRIBUTIONS*

***Editor's note:** Section 1 of Ord. No. 755, adopted Nov. 12, 1986, added ch. 25, which the editor has redesignated ch. 8.5 in order to maintain alphabetical sequence of chapter titles.

Sec. 8.5-1. Purpose and intent.

It is the intent of the city council of the City of Belmont in enacting this chapter to place realistic and enforceable limits on the amount which may be contributed to political campaigns in municipal elections, for the purpose of preventing potential improper or undue influence over elected officials by campaign contributions, and to ensure against election victories based primarily on the amount expended on campaigns.

This chapter is intended to supplement the Political Reform Act of 1974; and in the event of a conflict between the act and this article, that act shall prevail. This chapter is enacted pursuant to article XI, section 17 of the Constitution of the State of California, and section 22808 of the California Elections Code.

This chapter shall not apply to contributions or other amounts given to a committee which is organized solely for the purpose of supporting or opposing the qualifications for the ballot or adoption of one or more City measures.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-2. Definitions.

Except for those terms specifically defined herein, the definitions set forth in sections 82000 et seq. of the California Government Code shall be applicable to the provisions and terms of this chapter.

(a) *Candidate* means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution or make an expenditure or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. "Candidate" also includes any office holder who is the subject of a recall election. An individual who becomes a candidate shall retain his or her status as a candidate until such time as that status is terminated pursuant to Government Code section 84214.

(b) *Committee* means any person or combination of persons who directly or indirectly does any of the following:

- (1) Receives contributions for political purposes totaling five hundred dollars (\$500.00) or more in a calendar year;
- (2) Makes independent expenditures for political purposes totaling five hundred dollars (\$500.00) or more in a calendar year.

(c) *Contribution* means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and

adequate consideration is received for making the expenditure.

(1) The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment and adequate consideration.

(2) The term "contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(3) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

(4) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500.00) or less.

(5) Notwithstanding the foregoing definition of "contribution," the term does not include the candidate's own money or property used on behalf of his or her candidacy, personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(d) *Controlled committee* means a committee which is controlled directly or indirectly by a candidate or which acts jointly with a candidate or controlled committee in connection with the making of expenditures. A candidate controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

(e) *Organization* means any entity other than an individual, political action committee or controlled committee of a candidate, but includes businesses (including sole proprietorships), and nonprofit corporations or unincorporated associations.

(f) *Political action committee* means any committee as defined in this chapter other than a controlled committee of a candidate.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-3. Campaign contributions by individuals.

No individual shall make, and no candidate shall receive from any individual, any contribution to the campaign of any individual candidate for any City of Belmont elective public office in excess of one hundred dollars (\$100.00) in any calendar year.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-4. Campaign contributions by organizations.

No organization shall make, and no candidate shall receive from any organization, any contribution to the campaign of any individual candidate for any City of Belmont elective office in excess of two hundred dollars (\$200.00) in any calendar year.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-5. Campaign contributions by political action committees.

No political action committee shall make, and no candidate shall receive from any political action committee, any contribution to the campaign of any individual candidate for any City of Belmont elective public office in excess of two hundred dollars (\$200.00) in any calendar year. No candidate may receive any contributions in excess of six hundred dollars (\$600.00) combined total contributions from political action committees in any calendar year.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-6. Contributions under assumed name.

No person shall make a contribution for any other person under an assumed name or under the name of any other person.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-7. Anonymous contributions.

(a) Contributions, not to exceed a total of fifty dollars (\$50.00) from any one (1) person or source, are permitted to be retained by a candidate or any committee, including a committee supporting or opposing the passage of a measure, when received from anonymous sources or from persons who do not consent to having their name made known. Any such amount in excess of fifty dollars (\$50.00) shall be turned over to the finance director and deposited to the city's treasury.

(b) Except as provided in subsection (a) above, no person shall knowingly accept any contribution in excess of fifty dollars (\$50.00) without obtaining the name, address and occupation of the person making the contribution. For amounts of fifty dollars (\$50.00) or more, the employer's name must also be obtained for reporting purposes.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-8. Contributions by city contractors.

(a) No person who contracts with the city, either for the rendition of personal services or for the furnishing of any material, supplies or equipment to the city, or for selling any land or building to the city, ~~directly or indirectly, shall make any contributions to a candidate or committee at any time between the commencement of negotiations for and during the completion of the performance under, or the~~ termination of negotiations for, such contract or the furnishing of material, supplies, equipment, land or building, whichever occurs later.

(b) No candidate, agent for a candidate, committee or agent for a committee shall knowingly solicit any contribution from any person prohibited by subsection (a) of this subsection from making such a contribution.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-9. Business contributions.

If a contribution is received pursuant to section 8.5-3 from a person, other than an individual, and the person is controlled by an individual, either by controlling interest in stock, percentage of ownership, or directorship or voting rights, the contribution of that person shall be deemed the contribution of the controlling individual. The controlling individual shall not make any further contribution to a candidate or committee at any time thereafter. Any contribution from a person, other than an individual, shall identify all persons owning more than a ten (10) percent proprietary or voting interest in the person.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-10. Excess contributions.

The total contributions exceeding the maximum provided for in sections 8.5-3 through 8.5-9 will be deposited in the general fund of the city, earmarked to be used for the purpose of defraying the costs of municipal elections.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-11. Statements generally.

(a) *Required.* Each candidate and each committee shall file as a public record with the city clerk four (4) sworn cumulative itemized reports showing the total amounts of contributions received and expenditures made with respect to such election. The required statements may be completed on campaign statement forms required to be filed by state law so long as such forms are completed in sufficient detail to comply with the requirements of this chapter. Such statements shall contain a declaration by the candidate or committee chairperson that the candidate or committee has neither accepted nor solicited any campaign contribution in excess of the limitations of or in contravention of sections 8.5-3 through 8.5-9 inclusive.

(b) *Contributions.* Each campaign statement shall show the total cumulative amount of contributions received during the period covered by the statement from persons who have given fifty dollars (\$50.00) or less and the total cumulative amount of contributions received during the period covered by the statement from persons who have given a total of more than fifty dollars (\$50.00). Each person who has contributed a total of fifty dollars (\$50.00) or more shall be listed by name, address, occupation, employer and amount contributed. Each person contributing less than fifty dollars (\$50.00), and who has consented to publication shall be listed by name, address, occupation and employer. The total amount received from anonymous sources and from persons contributing fifty dollars (\$50.00) or less who have not consented to publication shall be listed. In the event that any portion of the contributions were received in connection with a fundraiser event, then the statement shall list the number of people in attendance, the gross receipts, the date and location of each event.

(c) *Expenditures Generally.* Each campaign statement shall show the total amount of expenditures made during the period covered by the statement.

(d) *Estimated Future Expenditures.* The campaign statement required to be filed by the candidate or committee upon the Friday next preceding the election date shall include, in addition to all other information required by this article, a statement of estimated additional expenditures which the candidate or committee chairperson reasonably expects to expend on or before the election date. There shall be no violation of this article if such estimate is unintentionally at variance with the amounts actually expended.

(e) *Times for Filing Generally.* Campaign statements required under this section shall be filed at the following times:

- (1) Between forty (40) and forty-five (45) days prior to the election, such statement to cover the period up to and including the forty-fifth day.
- (2) Between twelve (12) and seventeen (17) days prior to the election, such statement to cover the period up to and including the seventeenth day.
- (3) On the Friday preceding the election date to cover the period through the previous day.
- (4) Between fifty-eight (58) and sixty-five (65) days following the election, such statement to cover the period through the fifty-eighth day following the election.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-12. Declaration in lieu of campaign statement.

A candidate or committee need not file a campaign statement if the lawful receipts or expenditures do not exceed two hundred dollars (\$200.00); provided, that the candidate or committee chairperson shall file a written declaration with the finance director that to the best of his or her knowledge not more than two hundred dollars (\$200.00) has been received or expended on behalf of, in support of, or in opposition to a candidacy or measure, and that contributions have not exceeded those limitations established in this chapter.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-13. Suppliers of goods and services; disclosure of records required.

No person who supplies goods or services, or both goods and services, to a candidate or committee for use in connection with the campaign of the candidate or for or against a measure shall refuse knowingly to divulge or disclose to the enforcement authority his record of any expenditure made by the candidate or committee in payment for such goods or services, or both.

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-14. Violations and penalties.

Any person who knowingly or willfully violates any provisions of this chapter is guilty of a misdemeanor. In addition to any other penalty provided by law, any willful or knowing failure to report applicable law shall be punishable by a fine of not less than five hundred dollars (\$500.00).

(Ord. No. 755, § 1, 11-12-86)

Sec. 8.5-15. Effect of violation on election.

(a) The election to office of any candidate who is convicted of a violation of any provision of this chapter shall be void, and such office shall become vacant immediately if the candidate is the incumbent or upon the date the candidate would otherwise have taken office. The vacancy shall be filled in the same manner as other vacancies in city offices are filled. If a candidate is convicted of a violation of this chapter prior to the time when the election is to take place, his or her candidacy shall be terminated immediately and he or she shall be ineligible for that election. Any person convicted of a violation of this chapter shall be ineligible to hold any office, whether elective or appointive, for a period of five (5) years for each such conviction from and after the date of conviction.

(b) The city clerk shall not issue any certificate of election to any candidate until the campaign statements required by section 8.5-12 or, if no campaign statement is required, the written declaration permitted by section 84212 of the California Government Code, have been filed in the form and at the place required by the Political Reform Act of 1974 as amended. The city council shall not adopt a resolution declaring any candidate to be nominated or elected until such statements or declaration have been filed in accordance with the provisions of this chapter.

(Ord. No. 755, § 1, 11-12-86)

Excerpt from Minutes of September 10, 1986

In response to the Mayor's request for a report on Candidates campaign donations City Attorney Dickerson explained the ordinance he prepared was extensive to enable enforcement by checks and balances. He said there would be a separate set of forms to be filed with the Finance Director because the City Clerk position was an elected office and could not report to themselves.

Councilman Heiman read a letter he had prepared addressing his concern for the civil rights of citizens rich or poor and without restrictions on the ability to raise money. He said it was a legal but bad law and we should be working to expand rights and not diminish them. Councilman Orton said he felt the campaign contribution limitation would aid in maintaining the integrity of the system and small limited contributions would involve more people. Councilman Hardwick said the campaign contribution problems were statewide and not Belmont with its grassroots where time to campaign was more important than money and he felt this Ordinance would discourage future candidates. He suggested changing the reporting (disclosure) date to before the election date. Councilman Bomberger concurred with Councilman Hardwick and said this ordinance would make the process more complicated. Mayor Hoffman said it would be naive to think money did not buy elections and suggested the name incumbent should be eliminated on the ballots because voters were influenced to vote for the incumbent especially if they had any doubt about the candidates.

City Manager Everett suggested that since the majority of Councilmen were in favor of this Ordinance, Council go through the Ordinance draft with the City Attorney's direction to establish the dollar limitations so an ordinance could be prepared for introduction at the September 23, 1986 Meeting. Council consensus was to set a limit of \$100 per individual contribution, \$200 per organization and not more than \$600 combined total contributions from political action committees in any calendar year and any contribution in excess of Fifty dollars shall include the name, address, occupation and employer of the person making the contribution.

Excerpt from Minutes of October 23, 1986.

Mayor Hoffman read the above title of the ordinance and opened the Public Hearing inviting all interested persons to come to the podium and be heard.

Mr. James McLaughlin came forward to say he had reviewed the draft Ordinance and suggested, if Council felt they must set a campaign contribution limit on Candidates, that it be done by Resolution instead of by Ordinance because money values change and it would be easier and less expensive to change a Resolution. He requested that the Statement of contributions should be filed with the City Clerk the same as the State required statements are the responsibility of the City Clerk. He suggested that the amount of expenditures should be limited or a wealthy person could buy his own election without any contributions, and, there are already too many rules and regulations in the electoral process that discourages people from running for office. He asked Council not to adopt this Ordinance.

Lida Paetzke came to the podium to encourage Council to adopt this ordinance and said that it was long overdue.

There being no other speakers wishing to be heard it was moved by Councilman Bomberger, seconded by Councilman Orton to close the Public Hearing.

Councilman Bomberger requested that page 9 Line 13 be amended to read to be filed with the City Clerk, instead of the Finance Director, following confirmation from the City Attorney that the State requirements were required to be filed with the City Clerk.

Councilman Orton explained that the Supreme Court had ruled that campaign expenditures could not be limited and he said he would prefer an Ordinance to set campaign contribution limits.

Councilman Heiman said he agreed with Mr. McLaughlin and was very concerned for the minority position that should have the same opportunity to be communicated to the voters. He suggested setting the contribution limit below which a group can accept donations in any amount and that there be a sunset clause for review early in the year 1988 to check the results.

Mayor Hoffman said Council should set a limit a group or committee could donate the same as individual donations by amending the \$500 limits set on page 3 and page 5. He disagreed with the need for a sunset clause because problems could be resolved as they arose.

Council concurred the limits referred by Mayor Hoffman on Pages 3 and 5 were definitions of Committee and Contribution respectively.

Action: It was moved by Councilman Orton, seconded by Councilman Bomberger and carried with Councilmen Bomberger, Orton and Hoffman voting in favor, Councilman Heiman voting in opposition and Councilman Hardwick absent, that this Ordinance with Line 13 on Page 5 amended to read City Clerk instead of Finance Director, be introduced by title the Mayor had read, waive further reading and that it be continued to the Council Meeting to be held on November 12, 1986 for adoption.

1 (2) "Controlled committee" means a controlled committee controlled directly or
2 indirectly by a candidate for elective city office or that acts jointly with a candidate for elective
3 city office or another controlled committee in connection with the making of expenditures.

4 (3) "Election period" means the following:

5 (A) Except as further limited by subsections (B), (C), and (D) below, for a candidate or
6 a controlled committee in a general municipal election, "election period" means the period
7 beginning on January 1 after the last general or special municipal election for the affected office
8 seat and ending on December 31 following the next general municipal election for the particular
9 office seat. This election period is normally four (4) years.

10 (B) For a candidate or a controlled committee in a special municipal election held to fill
11 a vacancy in an elective city office, "election period" means the period beginning on the day the
12 vacancy in office began and ending on the December 31 following the special municipal
13 election; provided, however, that for a candidate at the special municipal election who
14 established a controlled committee for the office or accepted contributions before the vacancy
15 occurred, the election period means the period beginning on January 1 following the last general
16 municipal election for the particular office seat affected by the vacancy and ending on the
17 December 31 following the special municipal election.

18 (C) For a candidate or a controlled committee in a special municipal election held to
19 recall an elected city officer, including the elected official who is the subject of the recall
20 election, "election period" means the period beginning on the date that the notice of intention
21 to circulate a recall petition is filed with the city clerk pursuant to the Elections Code and ending
22 on the December 31 following the special municipal election; provided, however, that for any
23 candidate at the special municipal election who established a controlled committee or accepted
24 contributions for the office before the vacancy occurred, the election period means the period
25 beginning on January 1 following the last general municipal election for the particular office
26 affected by the vacancy and ending on the December 31 following the special municipal
27 election.

28 (D) For a candidate who is recalled at a special municipal election or who is not elected

1 at a general or special municipal election and for a controlled committee for such a candidate,
2 "election period" begins again on the January 1 following the election at which the candidate
3 was recalled or not elected and ends on the December 31 following the next general or special
4 municipal election at which the person is a candidate again.

5 (4) "Individual" means a natural person.

6 (5) "Organization" means a partnership, joint venture, syndicate, business trust,
7 company, corporation, limited liability company, association, committee, and any other
8 organization or group of persons acting in concert.

9 (b) Except as more specifically defined above, all words and phrases in this chapter
10 shall have the same meaning and be interpreted according to the definitions contained in the
11 California Political Reform Act of 1974, as amended (Government Code sections 81000 and
12 following), and the definitions and interpretations established in the regulations, resolutions, and
13 opinions of the Fair Political Practices Commission pursuant to the Political Reform Act of
14 1974, as amended.

15
16 2.25.020 Limits on contributions.

17 (a) It is unlawful for any individual to make contributions to any single candidate or to
18 any single controlled committee totaling more than \$500 in an election period.

19 (b) It is unlawful for any organization to make contributions to any single candidate or
20 to any single controlled committee totaling more than \$1,000 in an election period.

21 (c) It is unlawful for any candidate or controlled committee to accept contributions from
22 any individual totaling more than \$500 in an election period.

23 (d) It is unlawful for any candidate or controlled committee to accept contributions from
24 any organization totaling more than \$1,000 in an election period.

25 (e) The maximum amounts specified in this section shall be automatically adjusted by
26 the finance director on March 1 of each even-numbered year to be the product obtained by
27 multiplying the maximum amount specified in this section by a fraction, the numerator of which
28 is the Index as defined below, published for the month of December immediately prior to that

1 March 1, and the denominator of which is the Index published for December, 2006.

2 (1) "Index" means the Consumer Price Index-All Urban Consumers (CPI-U), All Items,
3 for San Francisco-Oakland-San Jose, CA (1982-84=100) published by the U.S. Department of
4 Labor, Bureau of Labor Statistics. Should the Index no longer be published, the finance director
5 shall select a comparable index that the finance director determines measures the increase and
6 decrease in the cost of living in the San Francisco-Oakland-San Jose area.

7 (2) The finance director shall send the revised maximum amounts to the city clerk and
8 the city council and make them available to the public. In no event shall the revised maximum
9 amounts be less than the then-current maximum amounts.

10 (3) The revised amounts shall be applicable to total contributions allowed by this section
11 for the entire election period as applicable to each candidate or controlled committee in which
12 the March 1 adjustment occurs.

13
14 2.25.030 Limitation on repayment of personal loans.

15 Following the date of the election for which a candidate is seeking elective office, it is
16 unlawful for the candidate to repay himself or herself or for any controlled committee to repay
17 the candidate from contributions to the candidate or the controlled committee for any loan
18 amount incurred during that election's election period by the candidate in excess of \$12,000.

19
20 Section 3. This ordinance shall be published according to law.

21
22 
23 _____
Mayor

24 I, DORIS MORTENSEN, City Clerk of the City of Burlingame, do hereby certify that
25 the foregoing ordinance was introduced at a regular meeting of the City Council held on the
26 5th day of February, 2007, and adopted thereafter at a regular meeting of the City Council held
27 on the 5th day of March, 2007, by the following vote:

28 AYES: COUNCILMEMBERS: BAYLOCK, COHEN, KEIGHRAN, NAGEL, O'MAHONY

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NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE


City Clerk

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2.80 Contributions and Loans to City Candidate Campaigns

Sections:

- 2.80.010 Findings and purpose.
- 2.80.020 Definitions.
- 2.80.030 Limitations on contributions.
- 2.80.040 Candidate loans.
- 2.80.050 Candidate campaigns only.
- 2.80.060 Injunction, other Court action.
- 2.80.070 Penalties.
- 2.80.080 Post election review.
- 2.80.090 Severability.

2.80.010 FINDINGS AND PURPOSE.

- (a) The City Council hereby finds that preserving integrity and openness in the political process is a matter of the highest public interest; that the people of the City of San Mateo can be better served through a more informed electorate; that the trust of the people is essential to representative government; and that regulation of certain campaign contributions and loans is necessary to promote public confidence in government and to protect the integrity of the electoral process.
- (b) The City Council further finds that regulation of campaign contributions is required because the costs of running political campaigns have reached levels that lead to a public perception that special interests and wealthy individuals may have undue influence on or access to elected officials.
- (c) It is the policy of the City to promote and encourage broad-based citizen involvement in the financing of election campaigns.
- (d) The City Council further finds that allowing candidates to lend unlimited amounts of their personal funds to their campaigns tends to undermine public confidence in the election process, because the public may perceive that candidates with large outstanding loans will seek contributors to repay their loan after the election, and may be predisposed to favor their post-election contributors.
- (e) Protecting public confidence in the political process requires adequate enforcement of the provisions of this article. (Ord. 2005-1 § 1, 2005).

2.80.020 DEFINITIONS. As used in this ordinance, the words and phrases shall be defined in the same manner as they are defined in the Political Reform Act of 1974 (including any amendments thereto) as found in California Government Code Sections 81000 et. seq., unless defined otherwise in this section. For the purposes of this Chapter, the terms below are defined as follows:

- (a) "Candidate" means any individual listed on the ballot for election to any city office, or who otherwise has taken affirmative action to seek election to city office, or who receives a contribution or makes an expenditure, or who gives his or her consent for any other person to receive a contribution or make an expenditure with the purpose of bringing about his or her election to any city office. "Candidate" also means an officeholder in connection with a recall election relating to such officeholder.
- (b) "Candidate committee" means a committee that is controlled directly or indirectly by a candidate or that acts jointly with a candidate in connection with the making of expenditures.
- (c) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. Except as provided herein, "contribution" includes an expenditure made at the behest of a candidate or candidate committee unless full and adequate consideration is received for making the expenditure.

The term "contribution" does not include a payment made by the occupant of a home or business for costs related to any meeting or fund raising event held in the occupant's home or business; or volunteer personal or professional services or the donation of goods by any individual if the services or goods are donated without any understanding or agreement that they shall be directly or indirectly repaid to him or her.

(d) "Individual" means a natural person and shall not include a partnership, corporation, association, firm, business entity, committee, club, or other organization.

(e) "Organization" means a partnership, corporation, association, firm, business entity, committee, club, union, or company. (Ord. 2005-1 § 1, 2005).

2.80.030 LIMITATIONS ON CONTRIBUTIONS.

(a) For any particular election, including a recall election, no individual shall make, and no candidate, candidate committee treasurer or other person acting on behalf of a candidate committee shall solicit or accept from any individual any contribution which will cause the total amount contributed by such individual to exceed two hundred and fifty dollars (\$250).

(b) For any particular election, including a recall election, no organization shall make, and no candidate, candidate committee treasurer or other person acting on behalf of a candidate committee shall solicit or accept from any organization any contribution which will cause the total amount contributed by such organization to exceed five hundred dollars (\$500).

(c) Any contribution or portion thereof that exceeds the limits in this section shall be returned to the contributor within 72 hours of receipt.

(d) The limitations imposed by this section shall not apply to contribution of a candidate's personal funds to the candidate's own campaign, or to any loan which is personally guaranteed by the candidate or is secured by property owned by the candidate. (Ord. 2005-1 § 1, 2005).

2.80.040 CANDIDATE LOANS. No candidate shall personally loan their campaign an amount the outstanding balance of which exceeds fifteen thousand dollars (\$15,000) at any given point in time. (Ord. 2005-1 § 1, 2005).

2.80.050 CANDIDATE CAMPAIGNS ONLY. The provisions of this ordinance apply to election campaigns for candidates only. The provisions of this ordinance do not apply to any referendum or initiative election. (Ord. 2005-1 § 1, 2005).

2.80.060 INJUNCTION, OTHER COURT ACTION. In addition to all other remedies and penalties provided for violation of this ordinance, the City Attorney may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief, to halt any violation of this ordinance. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this ordinance shall be deemed to restrict a suit for damages on behalf of the City or on behalf of any other person or entity. (Ord. 2005-1 § 1, 2005).

2.80.070 PENALTIES.

(a) Except as provided in subsection (b) below, the violation of any provision of this chapter shall constitute an infraction punishable by a fine not to exceed \$250.

(b) Any person who knowingly or willfully violates the provisions of this Chapter is guilty of a misdemeanor punishable by up to six months in jail, and/or a fine of up to the greater of ten thousand dollars (\$10,000) or three times the amount the person unlawfully contributed or received. (Ord. 2005-1 § 1, 2005).

2.80.080 POST ELECTION REVIEW. No later than three months after the certification of the results of a city election at which a city council member is elected, the city clerk shall calendar for city council consideration a review of the provisions of this chapter. The purpose of such review is to allow the city council to consider the ongoing appropriateness of the provisions of this chapter, including but not limited to, the amount of the contribution and loan limits established in sections 2.80.030 and 2.80.040.

Notwithstanding any other provision of this Code, the city clerk's failure to calendar this review within the time period specified shall not subject the city clerk to any criminal or civil penalty. (Ord. 2005-1 § 1, 2005).

2.80.090 SEVERABILITY. Each section and provision of this Chapter shall be considered severable and the invalidity of any section or provision of this Chapter shall not affect the validity or enforceability of any other section or provision. (Ord. 2005-1 § 1, 2005).

ORDINANCE NO. 01-07

**AN ORDINANCE OF THE CITY OF HALF MOON BAY AMENDING
CHAPTER 1.30, "CONTRIBUTIONS AND LOANS TO CITY CANDIDATE
CAMPAIGNS," AND CHAPTER 1.24, "ELECTIONS," OF THE HALF MOON
BAY MUNICIPAL CODE**

The City Council of the City of Half Moon Bay does ordain as follows:

SECTION 1. The definition of "Organization" set forth in Chapter 1.30, "Contributions and Loans to City Candidate Campaigns," Section 1.30.020, "Definitions," of the Half Moon Bay Municipal Code is hereby amended to read as follows:

"'Organization' means a partnership, corporation, association, firm, business entity, committee, including a political action committee, club, union, or company."

SECTION 2. Chapter 1.30, "Contributions and Loans to City Candidate Campaigns," Section 1.30.030, "Limitations on Contributions," of the Half Moon Bay Municipal Code is hereby amended to read as follows:

"1.30.030 Limitations on Contributions."

A. For any particular election, including a recall election, no individual or organization shall make, and no candidate, candidate committee treasurer or other person acting on behalf of a candidate committee shall solicit or accept from any individual or organization any contribution which will cause the total amount contributed by such individual or organization to exceed one thousand dollars (\$1000).

1. The contributions of an organization whose contributions are directed and controlled by any individual shall be aggregated with contributions made by the individual and other organizations whose contributions are directed and controlled by the same individual.

2. If two or more organizations make contributions that are directed and controlled by a majority of the same persons, the contributions of those organizations shall be aggregated.

3. Contributions made by organizations that are majority owned by any person shall be aggregated with the contributions of all other organizations majority owned by that person, unless those organizations act independently in their decisions to make contributions. "Majority owned" means an ownership of more than 50 percent.

B. Any contribution or portion thereof that exceeds the limits in this section shall be returned to the contributor within 72 hours of receipt.

C. The limitations imposed by this section shall not apply to contribution of a candidate's personal funds to the candidate's own campaign, or to any loan which is personally guaranteed by the candidate or is secured by property owned by the candidate.

D. 1. The limitations imposed by this section shall not apply to contributions received for the purposes of defraying the costs of a recount provided all of the following occur:

- a. The contributions are maintained in a separate bank account;
- b. The contributions are not used for any purpose not relating to a recount; and
- c. Once the recount is concluded, and all expenses associated with the recount have been discharged, the candidate disposes of any funds remaining by refunding recount contributors.

2. In addition to all other applicable reporting and disclosure requirements, candidates receiving funds to defray the costs of a recount shall file the following information with the city clerk no later than 60 days following conclusion of the recount:

a. **List of Contributions.** The total amount of contributions to the refund account received, along with the full name of each person from whom a contribution or contributions has been received, together with the contributor's street address, occupation, and the name of the contributor's employer, if any, or the principal place of business if the contributor is self-employed, the amount of the contribution, and the date the contribution was received.

b. **Expenditures.** A listing of all expenditures, including contributor refunds, made using funds from the refund account. Each listing shall provide a brief description of the expenditure, the amount of the expenditure and the date the expenditure was made. If there are still outstanding expenses associated with the recount at the time the list of expenditures is submitted to the city clerk, the candidate shall include a brief description of each outstanding expenses and the expected amount, if known, and the expected date by which the expenditure will be paid. No later than 10 days following the final outstanding recount related expenditure, the candidate shall file a final list of expenditures with the city clerk."

SECTION 3. Chapter 1.24, "Elections," Section 1.24.080, "Contributions and contributors," of the Half Moon Bay Municipal Code is hereby amended to read as follows:

"1.24.040 Contributions and contributors. On the Friday preceding any special or general election, the city clerk shall publish in a newspaper of general circulation the name of each person and committee from whom a contribution or contributions totaling one hundred dollars (\$100) or more has been received, the amounts each person or committee contributed, and the candidates or committees which received such amounts, as such appear on the campaign statements filed within the six-month period prior to the election pursuant to Article 2 (commencing with Section 84200) of the Government Code.

For purposes of this section, the definitions contained in Chapter 2 (commencing with Section 82000) of the Government Code apply."

SECTION 4. Chapter 1.24, "Elections," Section 1.24.090, "Disclosure in campaign statements," of the Half Moon Bay Municipal Code is hereby deleted.

SECTION 5. Effective Date. Pursuant to Section 36937 of the Government Code of the State of California, this ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 6. Publication. The City Clerk shall cause this ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

* * * * *

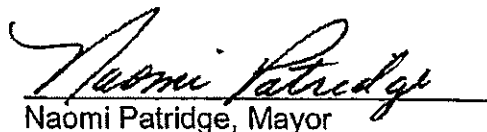
PASSED AND ADOPTED this 16th day of January, 2007, by the following votes:

AYES: Fraser, Muller, McClung, Mayor Patridge

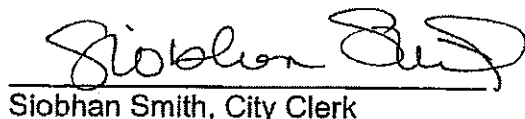
NOES: Grady

ABSENT: _____

ABSTAIN: _____


Naomi Patridge, Mayor

ATTEST:


Siobhan Smith, City Clerk